

EXHIBIT 6
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HB 225

AMERICAN TORT REFORM ASSOCIATION
Bringing Greater Fairness, Predictability and Efficiency to the Civil Justice System

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Prejudgment Interest Reform

In the absence of an applicable statute or rule, the courts generally applied the traditional common law rule that prejudgment interest was not available in tort actions since the claim for damages was unliquidated. In an effort to compensate tort plaintiffs for the often-considerable lag between the event giving rise to the cause of action, or filing of the lawsuit, and the actual payment of the damages, many state legislatures have enacted laws that provide for or allow prejudgment interest in particular tort actions or under particular circumstances. In addition to seeking to compensate the plaintiff fully for losses incurred, the goal of such statutes is to encourage early settlements and to reduce delay in the disposition of cases, thereby lessening congestion in the courts.

PROBLEM: Although well-intended, the practical effects of prejudgment interest statutes can be inequitable and counter-productive. Prejudgment interest laws can, for example, result in over-compensation, hold a defendant financially responsible for delay the defendant may not have caused, and impede settlement.

ATRA'S POSITION: At a time when policymakers are attempting to lower the cost of the liability system in an equitable and just manner, prejudgment interest laws that currently exist and new proposals should be reviewed to ensure that they are structured fairly and in a way designed to foster settlement. At a minimum, the interest rate should reflect prevailing interest rates by being indexed to the treasury bill rate at the time the claim was filed and an offer of judgment provision should be included.

OPPOSITION: The personal injury bar's argument in support of prejudgment interest – that prejudgment interest compensates the plaintiff fully for losses incurred, encourages early settlements, and reduces delay in the disposition of cases – fails to address the hardship faced by defendants held financially responsible for litigation delays they may not have caused.

STATE REFORMS

ALASKA

Prejudgment Interest Reform: HB 58 (1997). Sets prejudgment interest rate at the Twelfth Federal Reserve District's discount rate plus 3%. Prohibits the assessment of prejudgment interest for future damages and punitive damages.

COLORADO

Prejudgment Interest Reform: SB 165 (1995). Limits the amount of prejudgment interest that can be assessed between accrual of the action and filing of the claim to below the \$1,000,000 limit on the total amount recoverable in medical liability claims.

GEORGIA

Prejudgment Interest Reform: HB 792 (2003). Sets prejudgment interest rates at the Federal Reserve's prime interest rate plus 3%.

IOWA

Prejudgment Interest Rate Reform: HF 693 (1997); Amended Iowa Code § 535.3. . Sets the prejudgment interest rates at the U.S. Treasury Rate plus 2%.

Prejudgment Interest Rate Reform: SF 482 (1987). Prohibits the assessment of prejudgment interest for future damages. (Other interest accrues from the date of commencement of the actions at a rate based on the U.S. Treasury Bill.)

LOUISIANA

Prejudgment Interest Rate Reform: (1997). Sets prejudgment interest rates at the average Treasury Bill rate for 52 weeks plus 2%. Provided varying rates of prejudgment interest for actions pending or filed during the last 10 years.

Prejudgment Interest Rate Reform: HB 1690 (1987). Sets prejudgment interest rates at the prime rate plus 1% with a floor of 7% and a cap of 14%.

MAINE

Prejudgment Interest Rate Reform: LD 2520 (1988). Sets prejudgment interest rates and postjudgment interest rates at the U.S. Treasury Bill rate.

MICHIGAN

Prejudgment Interest Reform: HB 5154 (1986). Prohibits the assessment of prejudgment interest on awards for future

damages.

MINNESOTA

Prejudgment Interest Reform: SB 2078 (1986). Prohibits the assessment of prejudgment interest on awards for future damages.

MISSOURI

Prejudgment Interest Reform: H.B. 393 (2005); § 355.176 R.S.Mo. Specifies that prejudgment interest is to be calculated at an interest rate equal to the Federal Funds Rate plus three percent.

Prejudgment Interest Reform: HB 700 (1987). Permits the assessment of prejudgment interest only in cases where the judgment exceeds a settlement offer.

NEBRASKA

Prejudgment Interest Reform: LB 298 (1986). Reduces the rate of interest to 1% above the rate on U.S. Treasury Bill.

NEW HAMPSHIRE

Prejudgment Interest Reform: HB 140 (2001); Amended RSA 336:1. Sets the prejudgment interest rate at the 26-week discount U.S. Treasury Bill rate.

OKLAHOMA

Prejudgment Interest Reforms: HB 1603 (2009). Provides that prejudgment interest does not begin to accrue until two years after the beginning of a lawsuit; reduced the interest rate charged.

Prejudgment and Postjudgment Interest Reform: HB 2661 (2004). Sets prejudgment and postjudgment interest rate at the prime rate plus 2 percent (effective January 1, 2005).

Prejudgment Interest Reform: SB 629 (2003). Sets the prejudgment interest rate in medical malpractice cases to the average U.S. Treasury Rate of the preceding calendar year.

Prejudgment Interest Reform: SB 488 (1986). Prohibits the assessment of prejudgment interest on punitive damages awards. Sets the prejudgment interest rate at 4% above the rate on the U.S. Treasury Bill.

RHODE ISLAND

Prejudgment Interest Rate Reform: HB 5885 (1987). Sets the prejudgment interest rate at the U.S. Treasury Bill rate. Provides that interest accrues from the date the lawsuit is filed.

SOUTH CAROLINA

Prejudgment Interest: H. 3403 (2000). Sets prejudgment interest rates at the prime rate plus one percent.

TEXAS

Prejudgment Interest Reform: HB 4 (2003). Sets the prejudgment interest rate to the New York Federal Reserve prime rate, with a floor of 5% and a ceiling of 15%.

Prejudgment Interest Reform: SB 6 (1987). Limits the period during which prejudgment interest may accrue if the defendant has made an offer to settle the lawsuit.

Prejudgment Interest Reform: HB 971 (1995). Allows prejudgment interest only for damages that occurred before judgment.

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